College Relations Commission

Annual Report
1986-1987

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Ontario

College Relations Commission

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To: The Members of the Legislative Assembly
Province of Ontario

ANNUAL REPORT
1986-87

Dear Members,

I have the honour to present the Twelfth Annual Report of the College Relations Commission, covering the period from September 1, 1986 to August 31, 1987.

Bryan M. Downie
Chairman
College Relations Commission

August 31, 1987

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I DUTIES OF THE COMMISSION

The College Relations Commission was established by Section 55 of **The Colleges Collective Bargaining Act,** revised Statutes of Ontario, 1980. Its duties are:

a) to carry out the duties imposed on it by this Act and such other functions as may, in the opinion of the Commission, be necessary to carry out the intent and purpose of this Act;

b) to maintain an awareness of negotiations between the parties;

c) to compile statistical information on the supply, distribution, professional activities and salaries of employees;

d) to provide such assistance to parties as may facilitate the making or renewing of agreements;

e) to select and, where necessary, to train persons who may act as mediators, fact finders, arbitrators or selectors;

f) to determine, at the request of either party or in the exercise of its discretion, whether or not either of the two parties is or was negotiating in good faith and making every reasonable effort to make or renew an agreement;

g) to determine the manner of conducting and to supervise votes by secret ballot pursuant to this Act; and

h) to advise the Lieutenant Governor-in-Council when, in the opinion of the Commission, the continuance of a strike, lock-out or closing of a college or colleges will place in jeopardy the successful completion of courses of study by the students affected by the strike, lock-out or closing of the college or colleges.

The Chief Executive Officer and Secretary of the Commission is R.H. Field. The Commission's offices are at 111 Avenue Road, Suite 400, Toronto, Ontario M5R 3J8.

II MEMBERS OF THE COMMISSION

Chairman

Bryan M. Downie, B.A. (Concordia, Minnesota), M.B.A. (University of Chicago), Ph.D. (University of Chicago).

Dr. Downie, (Professor, Industrial Relations and Public Policy, Queen's University) has served as a fact finder, mediator, and interest arbitrator. He has published extensively in the area of labour relations and his book, *Collective Bargaining and Conflict Resolution in Education*

examines the activities and policies of the Education Relations Commission during its formative years. He is past President of the Canadian Industrial Relations Association and is Canadian Director and a Board member of the Society of Professionals in Dispute Resolution, an association of third party neutrals based in Washington, D.C.

Vice-Chairman

T. Gary O'Neill, B.A. Sc. (University of Toronto), M Eng. (Carleton), LL.B. (University of Ottawa)

Mr. O'Neill, is a member of an Ottawa law firm who is knowledgeable in both dispute resolution and the issues in the education sector of Ontario. Since 1977, Mr. O'Neill has served as a third-party on numerous occasions.

Commissioner

John Irwin Zeiler, B.A. (University of Toronto), LL.B. (University of Toronto).

Mr. Zeiler, is a partner in the law firm of Leve and Zeiler whose practice includes real estate, corporate, commercial and estate work. He was the solicitor for the developer who registered the first condominium in Ontario. Mr. Zeiler has taught for the Ontario Real Estate Association, the Appraisal Institute of Canada and more recently in the Department of Administrative Studies at York University where he lectures in Real Property Law.

Commissioner

Jane Scott, B.A. (Queen's University).

Ms. Scott, has served three consecutive terms as chairperson of the Lennox and Addington County Board of Education and was elected president of the Ontario Public School Trustees' Association for the year 1985. As a school trustee Ms. Scott had considerable experience in the field of teacher/board collective bargaining and in education finance. Her teaching experience includes business subjects such as Law, Bookkeeping and Office Practice.

Commissioner

William John McNeil, B.Com (University of Toronto).

John McNeil has had 15 years of experience as a teacher and Vice Principal in North York and 15 years of service as a Field Officer with the Ontario Secondary School Teachers' Federation. His past activities include Presidency of District 13, OSSTF, Governor of the Ontario Teachers' Federation, Advisory Board Member on Provincial Executives of OSSTF and former trustee of the Ontario Teachers' Insurance Plan. He is currently enrolled in the Master's Degree Program in Industrial Relations at the University of Toronto.

II NEGOTIATION PROCESS

The mandate of the College Relations Commission — to maintain an awareness of and to facilitate collective negotiations between the Ontario Council of Regents for Colleges of Applied Arts and Technology, as employer, and the Ontario Public Service Employees Union, representing the Academic and Support Staffs — is contained in the **Colleges Collective Bargaining Act.** Passed in 1975, and revised in 1980, this Act gives both the Academic Staff and Support Staff the right to strike and the Ontario Council of Regents for Colleges of Applied Arts and Technology the right to lock-out. These rights, however, are regulated. For example a strike or lock-out is not legal until:

a) a fact finder has met with the parties and his/her report has been made public; and

b) a 15-day cooling off period takes place after the fact finder's report is submitted to the parties; and

c) after the members of the employee organization have voted — by secret ballot in a supervised vote — on the last offer of the Council of Regents; and

d) after the members of the employee organization have voted — by secret ballot in a supervised vote — to take strike action.

At any time during the process, the parties may choose voluntary binding arbitration, or final offer selection as an alternate means of dispute resolution.

The Commission maintains its awareness of the negotiation process from the filing of an intent to negotiate by the parties, to the signing of a collective agreement. Particular attention is paid to the timing and appropriateness of appointments of fact finders, and mediators.

The conduct of votes — last offer, strike, or ratification — has assumed major importance for the Commission. This is due not only to the number of votes which have been supervised, but also to the number of members of the employee organizations, and the number of campuses involved.

IV STAFF AND FACILITIES

The Commission shares staff and facilities with the Education Relations Commission and has participated with the Education Relations Commission in the training of fact finders, mediators, arbitrators and selectors. Therefore, for a more complete picture of this year's activities, reference should be made to the Twelfth Annual Report of the Education Relations Commission.

V NEGOTIATIONS AND APPOINTMENTS

1. SUPPORT STAFF

On January 28, 1987 the support staff represented by the Ontario Public Service Employees Union filed an intent to negotiate with the Ontario Council of Regents for Colleges of Applied Arts and Technology. In a letter dated May 11, 1987 the Ontario Public Service Employees Union requested that a fact finder be appointed by the College Relations Commission. A similar request was received from Council of Regents in a letter dated May 12, 1987.

Mr. Douglas Lawless was appointed as fact finder on June 4, 1987. Mr. Lawless submitted his report to the Commission on June 25, 1987. Copies of the report were sent to the parties on June 26, 1987. The report was made public on July 15, 1987 in accordance with the provisions of section 21 of the **Colleges Collective Bargaining Act.** R.S.O. 1980 chapter 74. In his report Mr. Lawless included the following comments:

> "The parties have been negotiating since early May and jointly requested the College Relations Commission to appoint a fact finder.
>
> During four negotiating sessions since early May, the parties resolved a significant number of issues related to classification, travel allowance, income tax deduction, postings and leave plans. At this juncture many items remain unresolved including matters of job security, wages, benefits and classification. The Union is seeking wage increases in excess of the inflation rate, improved benefits and increased employee contributions where such is below 100 percent and wish to include improvements to the pension plan in this set of negotiations. The Council has made no offer in these areas.
>
> A new classification system is now being implemented and both parties are anxious to put in place administrative and grievance procedures to deal with the administration of the new system. Considerable work is needed in this area.
>
> The spirit and tone of the relations between the two parties are excellent and should auger well for a successful conclusion to this set of negotiations."

At the request of the parties in a letter dated July 6, 1987, Professor Gene Swimmer was appointed on July 8, 1987, to act as a mediator by the College Relations Commission.

At the time of writing negotiations were continuing.

2. ACADEMIC STAFF

On January 8, 1987 the Ontario Public Service Employees Union filed an intent to negotiate with the Ontario Council of Regents for Colleges of Applied Arts and Technology on behalf of the academic employees.

A joint request was received by the College Relations Commission from the Ontario Council of Regents for Colleges of Applied Arts and Technology and from the Ontario Public Service Employees Union on April 30, 1987 for the appointment of a fact finder in accordance with the provisions of Part III of the Colleges Collective Bargaining Act.

On June 2, 1987 the College Relations Commission appointed Mr. Ray Illing as a fact finder. Mr. Illing was formerly the Director of the Ontario Mediation and Conciliation Services Branch of the Ontario Ministry of Labour.

Mr. Illing submitted his report to the Commission and to the parties on June 23, 1987. The report was made public on July 13, 1987.

The fact finder's report contained the following comments:

> "During the afternoon separate sessions, I asked for a perspective from each party on the bargaining to-date, how they viewed the issues between them in comparison to past bargaining, what were the key issues likely to prove most difficult to resolve, their assessment of their present relationship, and an expression on the chances of success in this bargaining without resort to confrontation.
>
> As would be expected, in these circumstances, while both parties made efforts to respond to these questions during the separate sessions, neither party showed any great inclination to offer any significant insight to their bargaining strategies *at this stage*".
>
> "Regardless of the extenuating circumstances outlined in this report with respect to the fact finding undertaking, it is quite apparent that such an undertaking would not only be time-consuming, but also quite pointless because of at least two profound collective bargaining facts.
>
> First, the collective agreement does not expire until August 31, 1987, two and a half months from the date of my meeting with the parties. Frequently, parties have good intentions and a genuine desire to conclude a renewal prior to expiry of the existing collective agreement, but the absence of pressures and/or deadlines usually thwarts such a commendable endeavor.

In conclusion then, the meeting of June 15, 1987, served the purpose of providing a meaningful pause in the negotiations, allowing the parties to re-capitulate where they are at, and review where they are heading, and removed what the parties perceived to be an impasse.

I would hope and expect the parties will now schedule meetings and as previously stated, begin to make progress and considerably narrow down the items in dispute to the extent that further third party involvement will not be necessary, or at least, render such assistance more productive."

In a letter dated July 6, 1987, the parties requested the Commission to appoint Ray Illing to act as a mediator.

On July 9, 1987, the College Relations Commission appointed Mr. H. Ray Illing as a mediator.

Bargaining was continuing at the time of writing.

VI OTHER DEVELOPMENTS

During the reporting year, there were the following developments which may influence the relationships between the parties and future collective negotiations.

1. Grievance Mediation

This program is made available to the parties as part of the continuing effort by the College Relations Commission to fulfil its mandate under the **Colleges Collective Bargaining Act.** Grievance Mediation is a process designed to resolve grievances (differences that arise from the interpretation, application, administration or alleged contravention of the collective agreement) before the point of arbitration is reached. This mediation procedure is not a substitute for arbitration; it is however an attempt to solve a grievance with the assistance of a mediator appointed by the Commission.

The Commission will appoint a neutral third party when the grievance procedure has been exhausted, and prior to arbitration, if the parties both agree to this process. This third party will spend one day with the parties during which time they will try, in an informal and confidential manner, to settle the grievance. If the issue(s) cannot be settled, the parties maintain their right to proceed to arbitration.

The advantages of the grievance mediation process include the

following:

- **Attitudes**

  Grievance Mediation helps dissipate negative attitudes which can develop within a school system when grievances inhibit or become an aspect of negotiations. The mediation effort assists in avoiding the black and white, win-lose situation that can lead to a deterioration of relations between the parties.

- **Control**

  Grievance Mediation allows the parties themselves to shape the final settlement. If the grievance proceeds to arbitration, the settlement is imposed by an outsider to the college system.

- **Confidentiality**

  Grievance Mediation is an attempt to solve a matter before it is reviewed and discussed in an arbitration hearing. The process provides an informal context enabling privacy and confidentiality.

- **Cost**

  Grievance Mediation is generally less expensive than arbitration. The College Relations Commission underwrites the fees and expenses of the mediator.

- **Time**

  Grievance Mediation is a method of solving disputes directly and as quickly as possible. Delays in obtaining a decision through arbitration can be a source of frustration to all concerned.

In summary:

- the process is **VOLUNTARY**
- **BOTH** parties must agree to the assistance
- the process is **not** designed to eliminate the adversary system
- issues in education can be both unusual and complex. For these reasons, the College Relations Commission appoints grievance mediators with particular knowledge of and experience in dispute resolution in education.

Grievance Mediation Appointments during this reporting period.

Date	College	Nature of Assistance
March 18, 1987	Algonquin	Five grievances resolved
May 6, 1987	Algonquin	Three grievances resolved
June 29, 1987	Algonquin	Four grievances in process
July 27, 1987	Humber	One grievance in process

2. Colleges Collective Bargaining Commission

Dr. Jeffrey Gandz was appointed Commissioner of the Colleges Collective Bargaining Commission by Order-in-Council dated January 28, 1987.

The Colleges Collective Bargaining Commission has been established to review and advise the Minister of Colleges and Universities on the effectiveness of the current College Collective Bargaining process. In particular, the Commission will examine whether:

- negotiations between unionized staff and the Ontario Council of Regents should continue on the basis now provided under the **Colleges Collective Bargaining Act,** 1975, and, if so, what changes should be made to facilitate the operation of the collective bargaining process in the light of experiences to date;

- negotiations should be conducted on some other basis, and if so, — who should be the parties to the negotiations, and in what manner should the negotiation process be carried out;

- restrictions, if any, should be placed in legislation on issues that may be included in collective agreements between the parties; and

- restrictions, if any, should be placed in legislation on eligibility for membership in the union.

Persons or organizations wishing to make their views known were invited to submit written briefs to the Commission before June 1, 1987.